

BY-LAWS

WILLIAMSON COUNTY **STORM WATER APPEALS BOARD**

I. PURPOSE

The purpose of these by-laws is to provide for the orderly disposition of the business of the Storm Water Appeals Board (hereafter known as the "Board"). The Board is empowered with the authority to hear appeals of any order, decision, or ruling of the County Engineer, Storm Water Quality Coordinator or his designee (hereafter known as "Staff") pursuant to the Williamson County Storm Water Management Regulations and issue decisions thereon that it judges will be in harmony with the general purpose and intent. The Board's decisions are subject to appropriate principles, standards, rules, conditions, and safeguards set forth in the Williamson County Storm Water Management Regulations (hereinafter "Regulations").

II. AUTHORITY

These by-laws are adopted pursuant to the authority vested in Section 10 of the Williamson County Storm Water Management Regulations and Section 68-221-1106, Tennessee Code Annotated.

III. MEMBERS

1. APPOINTMENT

The Storm Water Appeals Board of Williamson County, established heretofore by the Williamson County Board of Commissioners in accordance with the Tennessee Code Annotated, is hereby reestablished and confirmed as a Board of seven (7) members. Their terms of office, succession, removal, filling of vacancies, and their powers and duties, shall be as provided in the Regulations. One (1) member, but not more than one (1) member of the Storm Water Appeals Board, may be a member of the Williamson County Board of Commissioners.

2. CONDUCT

- A. Site Visits. Board Members, at their own discretion, may visit sites for the evaluation of the appeal that is to be heard by the Board. The site visits shall not be in the company of other Board Members unless notice of the visit is advertised to the public as required by the Open Meetings Act. Any such visits shall be disclosed at the public hearing as well as any particular information that was obtained during the visit.
- B. Ex Parte Communication. At no time shall two or more Board Members

meet to discuss any issues to be heard before the Board without first complying with Tennessee Code Annotated, Section 8-44-101, et. seq. Nothing in this section shall be construed as to require a chance meeting of two or more Board Members to be considered a public meeting as long as the Board Members do not use the meeting to decide or deliberate any issues pending before the Board.

- C. Direct Economic Conflict of Interest. Any Board Member who personally has, or has an immediate family member who has any economic stake in any item that is to be heard before the Board must make known the conflict and excuse him or herself from discussion or voting on the item. At no time may a Board Member derive or attempt to derive any unjustified enrichment from his office through the solicitation or acceptance of any bribe, gift or other economic benefit, which the Board Member believes or should believe was intended to influence his or her vote or other action to be taken in his capacity. Board Members shall not accept any gift or other economic benefit granted because of any vote or other action in his official capacity already taken by him.
- D. Indirect Conflict of Interest. Any Board Member who has an indirect interest in any item that is to be heard by the Board may vote on the matter if the member informs the body immediately before the matter is heard that he has a conflict of interest but that he declares that he will vote his conscience to fulfill his obligation to the citizens that the body represents. "Indirect Conflict" shall mean any contract in which the Board Member may have an interest but will not derive a direct benefit from the action.

IV. OFFICERS AND THEIR DUTIES

1. OFFICERS

Officers of the Storm Water Appeals Board shall consist of a Chairman, a Vice Chairman, and a Secretary. The officers shall be elected from among the appointed members of the Board at the February meeting. The procedures for election of officers are as follows:

- A. The election meeting shall be presided over by the current Chairman, or in his absence, the Vice Chairman. If neither the Chairman or Vice Chairman is present, the Secretary shall call for an election to appoint a temporary chairman.
- B. Nominations shall be made by members of the Board.
- C. The candidate for each office receiving a majority vote of the entire

membership of the Board shall be declared elected.

- D. The Chairman, Vice Chairman and Secretary shall be elected for a one (1) year term, and shall be eligible to succeed themselves.
- E. Vacancies in office shall be filled for an unexpired term at the next regularly scheduled meeting of the Board.

2. DUTIES

- A. The Chairman shall preside at all meetings and hearings of the Board and have duties normally conferred by the parliamentary usage on such officers. The Chairman shall have the privilege of discussing all matters before the Board and to vote thereon.
- B. The Vice Chairman shall preside at any meeting or hearing not attended by the Chairman and shall assume all of his/her privileges and duties.
- C. The Secretary shall ensure that a full record is kept of all proceedings of the Board, including minutes and votes in the official minutes.
- D. The staff of the office of the County Engineer shall work with the Chairman in the preparation of the agenda for regular and special meetings, provide notice of meetings to Board members, arrange proper legal notice of hearings, attend to correspondence of the Board members, and such other duties as are deemed appropriate.

V. MEETINGS

- 1. Regular meetings shall be held on the fourth (4th) Wednesday of each month in the Auditorium of the Williamson County Administrative Complex. Due to holiday schedules and other unforeseen events, it may be necessary to re-schedule a regular meeting. In such case, when called for by the Chairman or a majority of members, the meeting may be rescheduled.
- 2. Special meetings may be called by the Chairman, when he/she deems it expedient, or when it is so requested by a majority of the Board membership. The notice of such meeting shall be given no less than ten (10) days prior to the meeting and shall specify the purpose of such a meeting and no other business may be considered.
- 3. The presence of five (5) voting members of the Board shall constitute a quorum, and a quorum must be present to hear any appeal. Once a quorum is established it will not be removed upon recusal of a member or if a member leaves for any

reason. A concurring vote of a majority of the voting members present shall be necessary to deny or grant any appeal.

4. Every meeting of the Board shall be open to the public pursuant to the Tennessee Open Meetings Act, Tennessee Code Annotated Section 8-44-101, et seq.
5. The Storm Water Appeals Board is hereby authorized to hear and decide appeals of any order, decision or ruling of the County Engineer or Storm Water Quality Coordinator or his designee issued pursuant to these Regulations. The Storm Water Appeals Board is hereby authorized to consider any application for waiver from the requirements of these Regulations as provided herein. In no event shall the Storm Water Appeals Board issue a decision that in any way violates any other federal, state, or local laws.
6. Application for Appeal to the Storm Water Appeals Board.
 - A. The Board is authorized to hear and decide applications for appeal of any order, decision or ruling of the County issued pursuant to these Regulations.
 - B. Application Requirements for Appeals.
 1. The appeal to the Storm Water Appeals Board shall be filed with the County Engineer within fifteen (15) days after the decision or ruling of the County Engineer is served in any manner authorized by law.
 2. All applications shall be filed with the County Engineer's office on official forms. The deadline for filing a complete application is 4:30 p.m., on the fourth (4th) Wednesday of the month prior to the scheduled meeting the following month.
 3. At a minimum, a complete application shall include:
 - a. the application form;
 - b. the filing fee;
 - c. information on the specific relief sought and justification;
 - d. plans, drawings, plats or surveys showing conditions of the site if the Regulations are applied as written; and
 - e. separate plans, drawings, plats or surveys showing conditions of the site if the Appeal is granted as requested.
 - f. Additionally, the applicant may provide photographs, calculations or other information which must also be filed with the application in order for it to be considered by the Board.
 4. For an appeal of a Notice of Violation or Cease and Desist Order where a civil penalty has also been imposed, in addition to the requirements above, the applicant shall pay the full amount of the

civil penalty to the County to be placed into an escrow fund pending the outcome of the appeal. If Board reduces or removes the civil penalty in accordance with its authority herein, then that portion of the civil penalty shall be returned to the applicant within sixty (60) days following the final decision of the Board.

5. When applications are filed, they shall be examined by the County Engineer, Storm Water Quality Coordinator or his designee for completeness and accuracy to determine whether all of the information and data have been provided. Where information is lacking or inadequate, the applicant shall be notified as to the nature and extent of the deficiency, and the appeal shall be retained as an intent to file for thirty (30) days, after which such appeal shall be considered abandoned by the applicant. Until deficiencies are remedied, the appeal shall be considered insufficient for review and action by the Board.
- C. Upon receipt of an appeal, the Storm Water Appeals Board shall hold a public hearing at the next regularly scheduled meeting. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a newspaper of general circulation. Ten (10) days notice by United States mail shall also be provided to the appellant, such notice to be sent to the address provided by the appellant on the Application for Appeal.
- D. Following the hearing on an application for appeal, the Board may defer for more information, affirm, reverse, modify or remand for more information, the order, decision or ruling of the County Engineer or Storm Water Quality Coordinator or his designee. In no event shall the issue a decision that in any way violates any other federal, state or laws. The decision of the Storm Water Appeals Board shall be

Board
local
final.

7. Application for Waiver

- A. The Board is hereby authorized to grant applications for a waiver of these Regulations provided the Board's action is consistent with the objectives and policies identified by these Regulations. The Board does not have the authority to permit actions by the applicant that are based on lack of proper planning or implementation of site development.
- B. Application Requirements for Waivers.
 1. The application for waiver to the Storm Water Appeals Board shall be filed with the County Engineer's office on official forms. The deadline for filing a complete application is 4:30

p.m., on the fourth (4th) Wednesday of the month prior to the scheduled meeting the following month.

2. At a minimum, a complete application shall include:
 - a. the application form;
 - b. the filing fee;
 - c. information on the specific relief sought and justification;
 - d. plans, drawings, plats or surveys showing conditions of the site if the Regulations are applied as written; and
 - e. separate plans, drawings, plats or surveys showing conditions of the site if the Waiver is granted as requested.
 - f. Additionally, the applicant may provide photographs, calculations or other information which must also be filed with the application in order for it to be considered by the Board.
 3. When applications are filed, they shall be examined by the County Engineer, Storm Water Quality Coordinator or his designee for completeness and accuracy to determine whether all of the information and data have been provided. Where information is lacking or inadequate, the applicant shall be notified as to the nature and extent of the deficiency, and the application shall be retained as an intent to file for thirty (30) days, after which such application shall be considered abandoned by the applicant. Until application deficiencies are remedied, the application for waiver shall be considered insufficient for review and action by the Board.
- C. Upon receipt of a complete application for waiver by the required filing deadline, the Storm Water Appeals Board shall hold a public hearing at the next regularly scheduled meeting. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a newspaper of general circulation. Ten (10) days notice by United States mail shall also be provided to the appellant, such notice to be sent to the address provided by the appellant on the Application for Waiver.
- D. The Board may defer for more information, grant, grant with conditions or deny the application for waiver in accordance with the standards outlined in the Storm Water Management Regulations. The Board may require proof that the applicant has complied with the decision of the Board. The decisions of the Board are final.

VI. HEARING PROCEDURE

1. General

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- A. Hearings. The Board shall fix a reasonable time for the hearing of an application for appeal or waiver; shall give at least ten (10) days notice of the time and place of the hearing; shall be advertised in a newspaper of general circulation in the County and specific notification by letter shall be made to the parties of interest. Parties in interest are defined, for purposes of this section, as the applicant, his consultant of record, and any HOA affected by request of the applicant.
 - B. The application for appeal or waiver must be represented at the meeting either:
 - 1. The owner(s) of the property in question as identified in the application according to the most recent deed recorded, his agent or attorney;
 - 2. Someone with Power of Attorney to represent the owner(s). The Power of Attorney will be an original document, unless recorded, and the document will have signatures of all owners notarized;
 - 3. Principal with full contractual rights. A lease holder may represent the appeal, but staff shall send notice by certified mail to the owner of record.
 - C. If an application is deferred by the Board, such appeal may be rescheduled for hearing without penalty, at the next scheduled meeting of the Board convenient to the applicant. In the event the decision on the appeal is deferred, re-notification of the date of continuation shall be accomplished as outlined in VI 1.(a) above.
 - D. Repeated Applications. If an application is disapproved by the Board, thereafter the Board shall not be required to consider another application for substantially the same proposal, on the same premises, until one (1) year after the date of disapproval. The Board may vote to consider a repeated application.

2 Order of Presentation and Public Hearing Session

- A. Each application shall be introduced by the staff and shall include:
 - 1. A brief explanation of why the application is before the Board, including presentation of a Staff Report, if one is prepared;

2. The sections of the appropriate Regulations under which the appeal arises, which shall be judicially noticed by the Board. Unless the parties object, the relevant sections will not necessarily be read; and,
 3. A presentation of maps, photographs, plans, studies, findings and other appropriate materials.
- B. After the staff introduction, the applicant shall present his/her case and shall provide:
1. The applicant's name and type of interest in the property;
 2. A statement of why the applicant believes the relief sought should be granted; and
 3. Any witnesses in support of the application.
- C. After the applicant presents his/her case, the Public Hearing Session shall be opened. The Public Hearing Session of each meeting shall consist of a public hearing of each appeal which is docketed for consideration on that day.
- D. Anyone appearing in support of or in opposition to the appeal shall present his/her case immediately following the close of the applicant's case during the Public Hearing Session and shall include:
1. The public member's name and relationship of public member's property to the property subject of the appeal; and
 2. A statement of why the public member believes the relief sought should or should not be granted.
- E. After each individual appeal is heard, the Public Hearing Session on that appeal shall be closed, and the Board will move on that appeal before proceeding to the next appeal.
- F. Any member of the Board may directly question the Staff, the applicant, public members who spoke during the Public Hearing Session, or witnesses appearing before the Board at any time during the testimony.
- G. All exhibits presented to the Board for consideration must be submitted as evidence and made a part of the official record unless the Board otherwise provides.

- H. Cross examination of any party by another party shall generally not be permitted. All such comments shall be addressed to the Board.
- I. Upon the conclusion of all the testimony and proof, the public hearing shall be closed and no further evidence admitted except as the Board may permit on special motion or request for good cause.
- J. The Chairman is authorized to place time limits on the presentation of testimony and proof in any and all cases.
- K. The Board shall then consider the applications based upon the evidence and testimony provided. No further testimony will be heard, and all questions and discussion shall be by members of the Board.
- L. After discussion by the Board and upon proper motion, a motion for an application for appeal or waiver shall be granted or denied if it receives the majority vote. When an application does not receive such majority vote for approval or denial or fails for lack of motion, the application shall be considered denied. (No motion on an administrative appeal means that the decision of the Staff, or that department whose decision is being appealed is upheld.)

VII. POST HEARING

Court Review. Any person(s) aggrieved by any decision of the Board may seek review pursuant to Tennessee Code Annotated.

VIII. PARLIAMENTARY PROCEDURE

Whenever a parliamentary matter arises that is not covered in these By-Laws, the current edition of Robert's Rules of Order shall apply.

IX. AMENDMENTS

The By-Laws of this Board may be amended at regular or special called meetings, but no amendment shall be adopted unless at least five (5) days notice has been given all members of the Board. A favorable vote of a majority of the entire membership of seven (7) members shall be required to effect a change in these By-Laws.

**Adopted by the Williamson County Storm Water Appeals Board on this
the 26th day of September, 2007.**

Mike Delvizio - Chairman
Williamson County Storm Water Appeals Board